



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

April 15, 2009

Ms. Christi Worth
Assistant General Counsel
Teacher Retirement System of Texas
1000 Red River Street
Austin, Texas 78701-2698

OR2009-04968

Dear Ms. Worth:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 339999.

The Teacher Retirement System of Texas (the "system") received a request for information pertaining to the requestor and the selectee related to the Senior Accountant I position filled in January, 2009. You state that some responsive information has been released to the requestor.¹ You claim that portions of the submitted information are excepted from disclosure under sections 552.117, 552.130, 552.136, and 552.137 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information.

Section 552.117(a)(1) of the Government Code excepts from public disclosure the home address and telephone number, social security number, and family member information of a current or former official or employee of a governmental body who requests that this

¹The system indicates that it will redact social security numbers pursuant to section 552.147(b) of the Government Code, which authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

²Although you also raise section 552.101 of the Government Code as an exception to disclosure of the requested information, you have provided no arguments regarding the applicability of this exception; we therefore assume that you no longer urge this exception. See Gov't Code §§ 552.301(b), (e); .302.

information be kept confidential under section 552.024 of the Government Code. Whether a particular item of information is protected by section 552.117(a)(1) must be determined at the time of the governmental body's receipt of the request for the information. *See* Open Records Decision No. 530 at 5 (1989). Thus, information may only be withheld under section 552.117(a)(1) on behalf of an official or employee who made a request for confidentiality under section 552.024 prior to the date of the governmental body's receipt of the request for the information. Information may not be withheld under section 552.117(a)(1) on behalf of an official or employee who did not timely request under section 552.024 that the information be kept confidential. You inform us, and provide documentation showing, that the employee at issue made a timely election for confidentiality under section 552.024. We therefore conclude that the system must withhold the information you have highlighted in green under section 552.117(a)(1) of the Government Code. We have marked some additional information that the system must withhold under section 552.117.

Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle title or registration issued by an agency of this state. *See* Gov't Code § 552.130(a)(2). We agree that the system must withhold the information that you have highlighted in yellow under section 552.130.

The system claims that some of the remaining information is excepted from public disclosure under section 552.136 of the Government Code. Section 552.136 states that "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." *Id.* § 552.136 (b). Section 552.136(a) defines "access device" as "a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to . . . obtain money, goods, services, or another thing of value [or] initiate a transfer of funds other than a transfer originated solely by paper instrument." *Id.* § 552.136(b). You have failed to demonstrate, however, how the information you have highlighted in blue falls within the definition of "access device." Therefore, the system may not withhold the highlighted information under section 552.136.

Section 552.137 of the Government Code states that "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under [the Act]," unless the owner of the e-mail address has affirmatively consented to its public disclosure. *Id.* § 52.137(a)-(b). The types of e-mail addresses listed in section 552.137(c) may not be withheld under this exception. *See id.* § 552.137(c). Likewise, section 552.137 is not applicable to an institutional e-mail address, an Internet website address, or an e-mail address that a governmental entity maintains for one of its officials or employees. The e-mail addresses at issue do not appear to be of a type specifically excluded by section 552.137(c). The

system must withhold the orange-highlighted e-mail addresses, as well as the additional e-mail address we have marked, under section 552.137 of the Government Code, unless the owner has affirmatively consented to disclosure.

In summary, the system must withhold the information you have highlighted (1) in green under section 552.117(a)(1) of the Government Code, as well as the additional information we have marked; (2) in yellow under section 552.130 of the Government Code; and (3) in orange, as well as the additional address we have marked, under section 552.137 of the Government Code, unless the owner has affirmatively consented to disclosure. The remaining submitted information must be released to the requestor.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 339999

Enc. Submitted documents

c: Requestor
(w/o enclosures)